

California Regional Water Quality Control Board
North Coast Region

COMPLAINT NO. R1-2001-38
FOR

ADMINISTRATIVE CIVIL LIABILITY

IN THE MATTER OF

MR. JAMES DOYLE
Doyle Camp Store
Cecilville

Siskiyou County

FOR

VIOLATIONS OF SECTION 13267(b) OF THE CALIFORNIA WATER CODE
And
THE ABOVEGROUND PETROLEUM STORAGE ACT

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (hereinafter the Regional Water Board), hereby gives notice that:

1. Mr. James Doyle (hereinafter the Discharger) owns and operates a petroleum aboveground storage tank (AGT) as part of the Doyle Camp store in Cecilville, near the South Fork of the Salmon River.
2. The AGT is approximately 1,200 gallons in size and stores gasoline. The AGT is subject to the Aboveground Petroleum Storage Act (APSA) contained in Chapter 6.67 of the California Health and Safety Code (CH&SC). The APSA requires owner or operators of AGTs to file a storage statement with the State Water Resources Control Board, pay a fee every two years, and prepare and implement a Spill Prevention Control and Countermeasure Plan (SPCC Plan).
3. Regional Water Board staff inspected the AGT on July 18, 2000, and observed the AGT system. The placement and operation of the AGT is not in compliance with the Aboveground Petroleum Storage Act. The aboveground tank facility consists of an old tank truck parked on the side of an earthen road adjacent to the Doyle Camp store. A gas pump is mounted on the back of the tank truck for dispensing fuel to customers. No containment exists around the tank to prevent spills to the environment.
4. Regional Water Board staff sent a letter to the Discharger on March 22, 2000 requesting compliance with the APSA through submittal by July 1, 2000 of a SPCC Plan, plans for construction of a secondary containment structure for the AGT, a storage statement, and delinquent filing fees.
5. The Discharger is in violation of CH&SC sections 25270.5, 25270.6, and 25270.7 pertaining to submittal of SPCC plans; storage statements; and fees.

6. On November 27, 2000, the Regional Water Board Executive Officer issued an order to the Discharger pursuant to California Water Code (CWC) Section 13267(b). The Order required submission of the storage statement and SPCC Plan by February 1, 2001. The Discharger has failed to submit the storage statement and SPCC Plan, thereby violating CWC Section 13267(b).
7. CWC Section 13268(a) provides for the imposition of civil liabilities against persons who fail or refuse to provide technical reports as required by subdivision (b) of CWC Section 13267. CWC Section 13268 provides that the Regional Water Board may assess civil penalties in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. As set forth above, the Discharger has failed to submit the reports required under CWC Section 13267(b). As of April 21, 2001, the Discharger has been in violation of Section 13267(b) of the CWC for eighty (80) days. This yields a maximum civil liability of \$80,000.
8. In determining the amount of the liability, the following factors were considered
 - a. The Nature, Circumstances, Extent, and Gravity of the Violations:

Failure to comply with the terms of the Aboveground Petroleum Storage Act is a serious violation. Preparation and implementation of an adequate SPCC Plan is necessary to ensure protection of water quality.
 - b. Economic Savings

The Siskiyou County Health Department referred the AGT to the Regional Water Board in January 2000; however, Regional Water Board staff does not know the exact date the AGT was first used to store gasoline. The savings from failure to pay fees are \$100 for the two-year period beginning January 2000. The savings for not preparing and implementing a SPCC Plan are approximately \$1000. The savings for not installing adequate secondary containment are approximately \$1000.
 - c. Degree of culpability

The Discharger failed to comply with the Aboveground Petroleum Storage Act and California Water Code.
 - d. Prior History of Violations

No prior history of violations has been documented.
 - e. Susceptibility to Cleanup and Voluntary Cleanup Efforts Undertaken:

This factor is not applicable with respect to the violations for which this complaint is issued.

f. Ability to Pay and Ability to Continue in Business:

The Regional Water Board staff has no information regarding the Discharger's ability to pay. The Discharger should be prepared to address his ability to pay the maximum civil liability or any lesser amount.

g. Other Matters as Justice May Require:

The Discharger is operating at an unfair economic advantage to other owners and operators of AGTs who are in compliance with the terms of the APSA and the CWC.

9. The issuance of a Complaint for Administrative Civil Liability is an enforcement action and is, therefore, exempt from the California Environmental Quality Act, pursuant to Title 14, California Code of Regulations, Section 15321.
10. The Regional Water Board's costs in attempting to achieve compliance with California law are approximately \$5,000.
11. This settlement will not become effective until after a 30-day public comment period.

Proposed Civil Liability

Based on the foregoing, I propose that James Doyle be assessed an Administrative Civil Liability in the amount of Five Thousand Dollars (\$5,000). Of that amount, I propose that two thousand five hundred dollars (\$2,500) be due and payable by May 29, 2001. I further propose that the remaining two-thousand five-hundred dollars (\$2,500) be suspended contingent upon submission of an SPCC Plan, storage statement, and plans for installation of secondary containment to the Regional Water Board by June 15, 2001. Failure to comply with any of the foregoing shall result in the automatic imposition of the suspended penalty of two thousand five hundred dollars.

Waiver of Hearing

Mr. Doyle may waive the right to a future hearing. If Mr. Doyle wishes to waive the hearing, he should sign the enclosed waiver and return it by May 29, 2001 with a cashier's check or money order, made payable to the "State Water Resources Control Board", in the amount of \$2,500 to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403. The suspended liability shall be automatically due and payable if Mr. Doyle fails to comply with any of the above-mentioned requirements for suspended liability.

Ordered by: _____
Lee A. Michlin
Executive Officer

May 4, 2001